

**Rule 2. Definitions****2.01 Definitions**

The terms used in these rules shall have the following meanings:

(1) **"Adjudicated father"** means an individual determined by a court, or pursuant to a Recognition of Parentage under Minnesota Statutes, section 257.75, to be the biological father of the child.

(2) **"Affidavit"** is defined in Rule 15 of the General Rules of Practice for the District Courts.

(3) **"Alleged father"** means an individual claimed by a party or participant to be the biological father of a child.

(4) **"Child"** means an individual under 18 years of age. "Child" also includes individuals under age 21 who are in foster care pursuant to Minnesota Statutes, section 260C.451.

(5) **"Child placing agency"** means any agency licensed pursuant to Minnesota Statutes, sections 245A.02 to 245A.16 or 252.28.

(6) **"Child custody proceeding"** is defined in the Indian Child Welfare Act, 25 U.S.C. section 1903(1), and Minnesota Statutes, section 260.755, subdivision 3, and means and includes:

(a) "foster care placement," which means any action removing an Indian child from the child's parent or Indian custodian for temporary placement in a foster home, institution, or the home of a guardian or conservator where the parent or Indian custodian cannot have the child returned upon demand, but where parental rights have not been terminated;

(b) "termination of parental rights," which means any action resulting in the termination of the parent-child relationship;

(c) "preadoptive placement," which means the temporary placement of an Indian child in a foster home or institution after the termination of parental rights, but prior to or in lieu of adoptive placement; and

(d) "adoptive placement," which means the permanent placement of an Indian child for adoption, including any action resulting in a final decree of adoption.

Such term or terms shall not include a placement based upon an act which, if committed by an adult, would be deemed a crime, or an award of custody to one of the parents in a divorce proceeding.

(7) **"Child support"** means an amount for basic support, child care support, and medical support pursuant to:

(a) the duty of support ordered in a parentage proceeding under Minnesota Statutes, sections 257.51 to 257.74;

(b) a contribution by parents ordered under Minnesota Statutes, section 256.87; or

(c) support ordered under Minnesota Statutes, chapter 518B or 518C.

(8) **"Electronic means"** is defined in Rule 14.01 of the General Rules of Practice for the District Courts.

(9) **"Emergency protective care"** means the placement status of a child when:

(a) taken into custody by a peace officer pursuant to Minnesota Statutes, section 260C.151, subdivision 6; 260C.154; or 260C.175; or

(b) returned home before an Emergency Protective Care Hearing pursuant to Rule 30 with court ordered conditions of release.

(10) "**Extended family member**," as defined in the Indian Child Welfare Act, 25 U.S.C. section 1903(2), which provides that the term is defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, shall be a person who has reached the age of eighteen (18) and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent.

(11) "**Foster care**" means the 24-hour-a-day substitute care for a child placed away from the child's parents or guardian and for whom a responsible social services agency has placement and care responsibilities under Minnesota Statutes, section 260C.007, subdivision 18. "Foster care" includes, but is not limited to, placement in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities not excluded in this subdivision, child care institutions, and preadoptive homes. A child is in foster care under this definition regardless of whether the facility is licensed and payments are made for the cost of care. Nothing in this definition creates any authority to place a child in a home or facility that is required to be licensed which is not licensed. "Foster care" does not include placement in any of the following facilities: hospitals, inpatient chemical dependency treatment facilities, facilities that are primarily for delinquent children, any corrections facility or program within a particular correction's facility not meeting requirements for Title IV-E facilities as determined by the commissioner, facilities to which a child is committed under the provision of chapter 253B, forestry camps, or jails. Foster care is intended to provide for a child's safety or access to treatment. Foster care must not be used as a punishment or consequence for a child's behavior.

(12) "**Independent living plan**" is a plan for a child age sixteen (16) or older who is in placement as a result of a permanency disposition which includes the objectives set forth in Minnesota Statutes, section 260C.212, subdivision 1, paragraph (c), clause (11).

(13) "**Indian child**" is defined in the Indian Child Welfare Act, 25 U.S.C. section 1903(4), and modified by Minnesota Statutes, section 260.755, subdivision 8, and means any unmarried person who is under age eighteen (18) and is either (a) a member of an Indian tribe or (b) eligible for membership in an Indian tribe.

(14) "**Indian custodian**" is defined in the Indian Child Welfare Act, 25 U.S.C. section 1903(6), and Minnesota Statutes, section 260.755, subdivision 10, and means an Indian person who has legal custody of an Indian child under tribal law or custom or under state law, or to whom temporary physical care, custody, and control has been transferred by the parent of such child.

(15) "**Indian child's tribe**" is defined in the Indian Child Welfare Act, 25 U.S.C. section 1903(5), and Minnesota Statutes, section 260.755, subdivision 9, and means:

(a) the Indian tribe in which an Indian child is a member or eligible for membership; or

(b) in the case of an Indian child who is a member of or eligible for membership in more than one tribe, the Indian tribe with which the Indian child has the most significant contacts.

(16) "**Indian tribe**" is defined in the Indian Child Welfare Act, 25 U.S.C. section 1903(8), and Minnesota Statutes, section 260.755, subdivision 12, and means an Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to

Indians by the Secretary of the Interior because of their status as Indians, including any Alaska Native village as defined in 43 U.S.C. section 1602(c), and exercising tribal governmental powers.

(17) **"Juvenile protection case records"** means all records regarding a particular juvenile protection matter filed with or generated by the court, including orders, notices, the register of actions, the index, the calendar, and the official transcript. See also "records" defined in subdivision (31).

(18) **"Juvenile protection matter"** means any of the following types of matters:

(a) child in need of protection or services matters as defined in Minnesota Statutes, section 260C.007, subdivision 6, including habitual truant and runaway matters;

(b) neglected and in foster care matters as defined in Minnesota Statutes, section 260C.007, subdivision 24;

(c) review of voluntary foster care matters as defined in Minnesota Statutes, section 260C.141, subdivision 2;

(d) review of out-of-home placement matters as defined in Minnesota Statutes, section 260C.212;

(e) termination of parental rights matters as defined in Minnesota Statutes, sections 260C.301 to 260C.328; and

(f) permanent placement matters as defined in Minnesota Statutes, sections 260C.503 to 260C.521, including matters involving termination of parental rights, guardianship to the commissioner of human services, transfer of permanent legal and physical custody to a relative, permanent custody to the agency, and temporary legal custody to the agency, and matters involving voluntary placement pursuant to Minnesota Statutes, section 260D.07.

(19) **"Legal custodian"** means a person, including a legal guardian, who by court order or statute has sole or joint legal or physical custody of the child.

(20) **"Nonresident parent"** means a parent who was not residing with the child at the time the child was removed from the home.

(21) **"Parent"** is defined in Minnesota Statutes, section 260C.007, subdivision 25.

(22) **"Parentage matter"** means an action under Minnesota Statutes, sections 257.51 to 257.74, to:

(a) establish a parent and child relationship, including determination of paternity or maternity, the name of the child, legal and physical custody, parenting time, and child support; or

(b) declare the nonexistence of the parent and child relationship.

(23) **"Person"** is defined in Minnesota Statutes, section 260C.007, subdivision 26, and includes any individual, association, corporation, partnership, and the state or any of its political subdivisions, departments, or agencies.

(24) **"Presumed father"** means an individual who is presumed to be the biological father of a child under Minnesota Statutes, sections 257.55, subdivision 1, or 260C.150, subdivision 2.

(25) **"Protective care"** means the right of the responsible social services agency or child-placing agency to temporary physical custody and control of a child for purposes of foster care placement,

and the right and duty of the responsible social services agency or child-placing agency to provide the care, food, lodging, training, education, supervision, and treatment the child needs.

(26) **"Protective supervision,"** as referenced in Minnesota Statutes, section 260C.201, subdivision 1, paragraph (a), clause (1), means the right and duty of the responsible social services agency or child-placing agency to monitor the conditions imposed by the court directed to the correction of the child's need for protection or services while in the care of the child's parent or legal custodian.

(27) **"Putative father"** is defined in Minnesota Statutes, section 259.21.

(28) **"Qualified expert witness"** is defined in Minnesota Rules, part 9560.0221, subpart 3, item G, and means:

(a) a member of an Indian child's tribe who is recognized by the tribal community as knowledgeable in tribal customs of family organization and child rearing;

(b) a lay expert witness having substantial experience in the delivery of child and family services to Indians, and extensive knowledge of prevailing social and cultural standards and child-rearing practices within the Indian child's tribe; or

(c) a professional person having substantial education and experience in the area of the professional person's specialty, along with substantial knowledge of prevailing social and cultural standards and child-rearing practices within the Indian community.

(29) **"Reasonable efforts to prevent placement"** is defined in Minnesota Statutes, section 260.012, paragraph (d), and means:

(a) the agency has made reasonable efforts to prevent the placement of the child in foster care; or

(b) given the particular circumstances of the child and family at the time of the child's removal, there are no services or efforts available which could allow the child to safely remain in the home.

"Reasonable efforts" are made upon the exercise of due diligence by the responsible social services agency to use culturally appropriate and available services to meet the needs of the child and the child's family.

(30) **"Reasonable efforts to finalize a permanent plan for the child"** is defined in Minnesota Statutes, section 260.012, paragraphs (e) and (f), and means due diligence by the responsible social services agency:

(a) to reunify the child with the parent or guardian from whom the child was removed;

(b) to assess a noncustodial parent's ability to provide day-to-day care for the child and, where appropriate, provide services necessary to enable the noncustodial parent to safely provide the care, as required by Minnesota Statutes, section 260C.212, subdivision 4;

(c) to conduct a relative search as required under Minnesota Statutes, section 260C.212, subdivision 5;

(d) to place siblings removed from their home in the same home for foster care or adoption, or transfer permanent legal and physical custody to a relative. Visitation between siblings who are not in the same foster care, adoption, or custodial placement or facility shall be consistent with Minnesota Statutes, section 260C.212, subdivision 2; and

(e) when the child cannot return to the parent or guardian from whom the child was removed, to plan for and finalize a safe and legally permanent alternative home for the child, and consider permanent alternative homes for the child inside or outside of the state, preferably through adoption or transfer of permanent legal and physical custody of the child.

"Reasonable efforts" are made upon the exercise of due diligence by the responsible social services agency to use culturally appropriate and available services to meet the needs of the child and the child's family.

(31) **"Records"** is defined in Rule 3 of the Rules of Public Access to Records of the Judicial Branch. See also "juvenile protection case records" defined in subdivision (17).

(32) **"Relative"** is defined in Minnesota Statutes, section 260C.007, subdivision 27, and means a person related to the child by blood, marriage, or adoption, or an individual who is an important friend with whom the child has resided or had significant contact. For an Indian child, "relative" includes members of the extended family as defined by the law or custom of the Indian child's tribe or, in the absence of laws or custom, nieces, nephews, or first or second cousins, as provided in the Indian Child Welfare Act of 1978, 25 U.S.C. section 1903(2).

(33) **"Removed from home"** means the child has been taken out of the care of the parent or legal custodian, including a substitute caregiver, and placed in foster care or in a shelter care facility.

(34) **"Reservation"** is defined in the Indian Child Welfare Act, 25 U.S.C. section 1903(10), and means Indian country as defined in 18 U.S.C. section 1151 and any lands, not covered under such section, title to which is either held by the United States in trust for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to a restriction by the United States against alienation.

(35) **"Shelter care facility,"** as adapted from Minnesota Statutes, section 260C.007, subdivision 30, means a physically unrestricting facility, including but not limited to, a hospital, a group home, or a facility licensed for foster care pursuant to Minnesota Statutes, chapter 245A, used for the temporary care of a child during the pendency of a juvenile protection matter.

(36) **"Trial home visit"** is defined in Minnesota Statutes, section 260C.201, subdivision 1, paragraph (a), clause (3), and means the child is returned to the care of the parent or legal custodian from whom the child was removed for a period not to exceed six months, with agency authority and responsibilities as set forth in the statute.

(37) **"Tribal court"** is defined in the Indian Child Welfare Act, 25 U.S.C. section 1903(12), and means a court with jurisdiction over child custody proceedings and which is either a Court of Indian Offenses, a court established and operated under the code or custom of an Indian tribe, or any other administrative body of a tribe which is vested with authority over child custody proceedings.

(38) **"Voluntary foster care"** means placement of a child in foster care based on a written agreement between the responsible social services agency or child-placing agency and the child's parent, guardian, or legal custodian or the child, when the child is age 18 or older. The voluntary foster care agreement gives the agency legal responsibility for the placement of the child. The voluntary foster care agreement is based on both the agency's and the parent's, guardian's, or legal custodian's assessment that placement is necessary and in the child's best interests. See Minnesota Statutes, sections 260C.227, 260C.229, and 260D.02, subdivision 5.

(39) **"Voluntary foster care of an Indian child"** is defined in Minnesota Statutes, section 260.755, subdivision 22, and means a decision in which there has been participation by a local

social services agency or private child-placing agency resulting in the temporary placement of an Indian child away from the home of the child's parent or Indian custodian in a foster home, institution, or the home of a guardian, and the parent or Indian custodian may have the child returned upon demand.

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